

City of Blue Ridge

480 West First Street

Blue Ridge, Georgia 30513

(706) 632 - 2094

HOTEL-MOTEL OCCUPANCY TAX REPORT

Month of _____

Report Rent In Even Dollars

Gross room rent _____
Less Exempt rent _____
Net taxable rent _____
Amount of tax @5% _____
Less 5% of tax for collection fee _____
Net amount due _____

Remit payment to:

City of Blue Ridge
480 West First Street
Blue Ridge, GA 30513

This report is due and payable on the 20th day of the month following the month of collection. If the 20th day falls on other than a business day, the report shall be due on the following work day.

Penalty and interest for failure to pay tax by due date. An operator who fails to make any return or to pay the amount of tax as prescribed, or who files a false or fraudulent return, shall be assessed a specific penalty to be added to the tax in the amount of fifty percent (50%) of the correct tax due. Delinquent amounts shall bear interest at the rate of one percent (1%) per month, or fraction thereof, until paid.

Lodging providers are entitled to a collection fee of five percent (5%) of the tax collected for collection and remittance of this tax, but only if the amount due is not delinquent at the time of payment.

I DECLARE UNDER PEALTIES PRESCRIBED BY GEORGIA LAW THAT THE INFORMATION CONTAINED IN THIS DOCUMENT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Business _____
Address _____
Signed _____
Title _____

REVISED: JUNE 01, 2011

AN ORDINANCE
OF
THE CITY OF BLUE RIDGE

AN ORDINANCE OF THE CITY OF BLUE RIDGE IMPOSING A HOTEL-MOTEL EXCISE TAX AND PROVIDING FOR THE ADMINISTRATION AND COLLECTION OF SUCH TAX.

BE IT ORDAINED THAT:

Section 1. Definitions.

The following words, terms and phrases shall, for the purpose of this ordinance and except where the context clearly indicates a different meaning, be defined as follows:

City. The City of Blue Ridge and, variously, the incorporated territory of the city, wherein the City of Blue Ridge is empowered to impose this tax by OCCA 48-13-50. et seq.

City Clerk. The duly appointed City Clerk of the City of Blue Ridge or his designee.

Due date. The twentieth (20th) day after the close of the monthly period for which the tax is to be computed.

Estimated tax liability. The lodging provider's prospective tax liability based upon the average monthly tax remittance in the prior fiscal year, as adjusted for change in tax rate or substantial change in circumstances due to damage to the hotel.

Folio. Primary documentation produced by a hotel that demonstrates interaction between the lodging provider and the occupant, and which, at a minimum, reflects the name and address given by the occupant, the date(s) of occupancy, the amount of rent charged for each date together with the amounts of applicable excise tax(es), and the method(s) of payment.

Guest room. A room occupied, or intended, arranged, or designed for transient occupancy, by one (1) or more occupants for the purpose of living quarters or residential use.

Hotel. Any structure or any portion of a structure, including any lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motel, motor hotel, auto court, truckstop, tourist cabin, lodge, inn, time-share or other condominium, apartment community, public club, or private club, containing guest rooms and which is occupied, or is intended or designed for occupancy, by paying guests, whether rent is paid in money, goods, labor, or otherwise. It does not include any hospital,

asylum, sanitarium, orphanage, jail, prison, or other buildings in which human beings are housed and detained under legal restraint.

Lodging Provider. Any person operating a hotel in the city, including, but not limited to, the owner or proprietor of such premises, lessee, sublessee, lender in possession, licensee or any other person operating such hotel; and who is subject to the taxation imposed for furnishing for value to the public any rooms, lodgings, or accommodations.

Monthly period. The calendar months of any year.

Occupancy. The use or possession, or the right to the use or possession of any guest room or apartment in a hotel or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room.

Occupant. Any person who, for a consideration, uses, possesses, or has the right to use or possess any guest room in a hotel under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Permanent resident. Any occupant who, as of a given date, has or shall have occupied or has or shall have the right of occupancy of any guest room in a hotel for not less than ten (10) continuous days next preceding such date.

Person. Any individual, firm, partnership, joint adventure, association, social club, fraternal organization, joint stock company, corporation, cooperative, estate, trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number; excepting the United States, the State of Georgia and any instrumentality of either thereof upon which the city is without power to impose the tax.

Rent. The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the lodging provider to the occupant, without any deduction therefrom whatsoever.

Tax. The tax on occupants imposed by this ordinance, as provided for by OCGA 48-13-50, et seq.

Section 2. Tax rate.

There shall be paid for every occupancy of a guest room in a hotel in the city a tax at the rate of (3%) three percent of the amount of rent unless an exemption is provided under section 4.

Section 3. Collection of tax by lodging provider.

Every lodging provider renting guest rooms in this city shall collect a tax of three percent (3%) on the amount of rent from the occupant unless an exemption is provided under section 4. The lodging provider shall provide a receipt to each occupant, which receipt shall reflect both the amount of

rent and the amounts of this and other tax(es) applicable. This tax shall be due from the occupant, and shall be collected by the lodging provider at the same time that the rent is collected.

Section 4. Exemptions.

No tax shall be collected from an occupant after becoming a permanent resident; or from an occupant who certified in writing that he is staying in such accommodations as a result of his residence having been destroyed by fire or other casualty; or from the United States and the state of Georgia or any instrumentality of either thereof; or from any official or employee of the State, its units of local government credit or debit card; or from a foreign diplomat exempted by treaty or consular convention, when presenting substantiation issued by the United States Department of State. Occupancy provided without charge in money or otherwise is exempt from this tax.

Section 5. Registration of lodging provider; form and contents; execution; certificate of authority.

Every person engaging or about to engage in business as a lodging provider in this city shall immediately register with the city clerk on a form provided by said official. Persons engaged in such business must so register not later than thirty (30) days after the date that this ordinance becomes effective. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place(s) of business and such other information which would facilitate the administration of the tax as prescribed by the city clerk. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner; in case of ownership by a corporation by an officer. The city clerk shall, after such registration, issue without charge a certificate of authority to each lodging provider to collect the tax from the occupant. A separate registration shall be required for each place of business of a lodging provider. Each certificate shall state the name and location of the business to which it is applicable.

Section 6. Determination generally; returns; payments.

(a) Due date of taxes. All amounts of such tax shall be due and payable to the city clerk monthly on or before the twentieth (20th) day of the month next succeeding the respective monthly period. The tax shall become delinquent for any monthly period after the twentieth (20th) day of each succeeding month during which it remains unpaid.

(b) Penalty and interest for failure to pay tax by due date. A lodging provider who fails to make any return or to pay the amount of tax as prescribed, shall be assessed five percent (5%) or five dollars (\$5.00), whichever is greater, if the failure is for one (1) month or less; and an additional five percent (5%) or five dollars (\$5.00), whichever is greater, for each additional month or fraction thereof in which such failure shall continue; provided, however, that the aggregate penalty for any single violation shall not exceed twenty-five percent (25%) or twenty-five dollars (\$25.00), whichever is greater. Delinquent amounts shall bear interest at the rate of one percent (1%) per month, or fraction thereof until paid.

(c) Acceptance of delinquent return and remittance without imposing penalty and interest; authority; requirements. If the failure to make any return or to pay the amount of tax by the due date results from providential cause shown to the satisfaction of the governing authority of the city by affidavit attached to the return, and remittance is made within ten (10) days of the due date, such return may be accepted exclusive of penalty and interest.

(d) Waiving of penalty and interest; authority. O.C.G.A. Section 48-2-41, relating to the authority to waive interest, and Section 48-2-43, relating to the authority to waive penalty, shall apply; provided, however, that the governing authority shall stand in lieu of the Georgia Commissioner of Revenue, and the city shall stand in lieu of the State.

(e) Penalty for fraud. In the case of a false or fraudulent return, or of failure to file a return where willful intent exists to defraud the city of any tax due, a penalty of fifty percent (50%) shall be assessed.

(f) Return; remittance; time of filing; lodging providers required to file; contents. On or before the twentieth (20th) day of the month succeeding each monthly period, a return for the preceding monthly period together with appropriate remittance shall be filed with the city clerk. The return shall report the gross rent, taxable rent, exempt rent, amount of tax collected or otherwise due for the period, and such other information as may be required by the city clerk. However, if the estimated tax liability for any monthly period shall exceed two thousand five hundred dollars (\$2,500.00) for a lodging provider who, in the prior fiscal year remitted tax greater than two thousand five hundred dollars (\$2,500.00) in any three (3) consecutive months, such lodging provider shall file an estimated return and remit not less than fifty percent (50%) of the estimated tax liability for the monthly period. The amount to be due with the regular return for the monthly period to be filed on the twentieth (20th) day of the succeeding month.

(g) Extension of time of filing; authority; requirements; remittance; penalty and interest. The governing authority of the city may, for good cause, extend the time for making returns for not longer than thirty (30) days. No extension shall be valid unless granted in writing upon written application of the lodging provider. Such grant may not be applicable for longer period than twelve (12) consecutive months. A lodging provider granted an extension shall remit tax equaling not less than one hundred percent (100%) of the tax paid for the corresponding period of the prior fiscal year; such remittance to be made on or before the date the tax would otherwise come due without the grant of extension. No penalty or interest shall be charged during the first ten (10) days of the extension period. Thereafter, interest shall be collected on the unpaid balance at the rate of one percent (1%) per month.

(h) Collection fee allowed lodging providers. Lodging providers collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if the amount is not delinquent at the time of payment. the rate of the deduction shall be three percent (3%) of the amount due, but only if the amount due was not delinquent at the time of payment.

Section 7. Deficiency determinations.

(a) Recomputation of tax; authority to make; basis of recomputation. If the city clerk is not satisfied with the return or returns of the tax or the amount of the tax required to be paid to the city by any lodging provider, he may compute and determine the amount required to be paid upon the basis of any information within his possession or that may come into his possession. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.

(b) Penalty and interest for failure to pay tax. Penalty and interest shall be assessed upon the amount of any determination, as provided by Section 6.

(c) Notice of determination; service of. The city clerk shall give to the lodging provider written notice of his determination. The notice may be served personally or by mail; if by mail, such service shall be addressed to the lodging provider at his address as it appears in the records of the city. Service by mail is complete when delivered by certified mail with a receipt signed by the addressee, or when made by statutory overnight delivery.

(d) Time within which notice of deficiency determination to be mailed. Except in cases of failure to make a return or of fraud, every notice of deficiency determination shall be mailed within three (3) years after the twentieth (20th) day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever period should last expire.

Section 8. Determination if no return made.

(a) Estimate of gross receipts. If any lodging provider fails to make a return, the city clerk shall make an estimate of the amount of the gross receipts of the lodging provider, or as the case may be, of the amount of total rentals in this city which are subject to the tax. The estimate shall be made for the period of periods in respect to which the lodging provider failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk. Written notice shall be given in the manner prescribed in Sections 7(c).

(b) Penalty and interest for failure to pay tax. Penalty and interest shall be assessed upon the amount of any determination, as provided by Section 6.

Section 9. Collection of tax by city .

(a) Action for delinquent tax; time for. At any time within three (3) years after any tax or any amount of tax required to be collected becomes due and payable, and at any time within three (3) years after the delinquency of any tax or any amount of tax required to be collected, the city clerk may bring an action in a court of competent jurisdiction in the name of the city to collect the amount delinquent together with penalty, interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) Lodging provider selling or quitting business. If any lodging provider liable for any amount under this ordinance sells out his business or quits his business, he shall make a final return and remittance within fifteen (15) days after the date of selling or quitting the business.

(c) Duty of successors or assignees of lodging provider to withhold tax from purchase money. If any lodging provider liable for any amount of tax, interest or penalty under this ordinance sells out his business or quits the business, his successors or assigns shall withhold sufficiently from the purchase price to cover such amount until the former owner produces from the city clerk either a receipt reflecting full payment or a certificate stating that no amount is due.

(d) Liability for failure to withhold. If the purchaser of a business fails to withhold from the purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(e) Credit for tax, penalty or interest paid more than once or erroneously or illegally collected. Whenever the amount of any tax, penalty or interest has been paid more than once, or has been erroneously or illegally collected or received by the city, it may be refunded by the governing authority. If the lodging provider or person determines that he has overpaid or paid more than once, which fact has not been determined by the city clerk, such person shall have three (3) years from the date of payment to file a claim in writing stating the specific ground upon which the claim is founded. The claimant may request a hearing before the governing authority at which the claim and any other information available will be considered. The governing authority shall approve or disapprove the claim, and notify the claimant of its action.

Section 10. Administration of ordinance; recordkeeping.

(a) Authority of city clerk. The city clerk shall administer and enforce the provisions of this ordinance for the collection of the tax.

(b) Records required from lodging providers, etc; form. Every lodging provider renting guest rooms in the city shall preserve, for a minimum of three (3) years, all folios, receipts, certificates of exemption and such other documents as the city clerk may prescribe, and in such form as he may require. Said records shall at all times be available for examination within the city.

(c) Application for sales tax audit reports. Each year, in the month of January, the city clerk shall request in writing from the Georgia Commissioner of Revenue any reports of sales tax audits conducted of hotels in the city during the preceding calendar year.

(d) Examination of records; audits. The city clerk or any person authorized in writing by him may examine the books, papers, records, financial reports, equipment and other facilities of any lodging provider renting guest rooms and any lodging provider liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the lodging provider,

to ascertain and determine the amount required to be paid.

(e) Authority to require reports; contents. In administration of the provisions of this ordinance, the city clerk may require the filing of reports by any person or class of persons having in their possession or custody information relating to the rental of guest rooms which are subject to the tax. The reports shall be filed with the city clerk when required by said official, and shall set forth the rental charged for each occupancy, the date(s) of occupancy, the basis for exemption, or such other information as the city clerk may prescribe.

Section 11. Violations.

Any lodging provider who fails, neglects or refuses to collect the tax as provided by Section 3 shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or confinement in the county for a term not to exceed three (3) months, or both fine and confinement. Any lodging provider who fails or refuses to make any return as provided by Section 6, to keep adequate records or to open them for inspection by the city, or to furnish other data reasonably requested by the governing authority shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100.00), or confinement for a term not to exceed three (3) months, or both. Any lodging provider who makes a false or fraudulent return with intent to evade the tax shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than three hundred dollars (\$300.00), of confinement for a term not to exceed three (3) months, or both. Each and every day during any portion of which any violation is committed, continued or permitted, shall constitute a separate offense and shall be punished accordingly.

Section 12. Effective date.


This ordinance and the tax levied hereby shall become effective on the first (1st) day of the second (2nd) month following its adoption.

FIRST READING: AUGUST 22, 2000

DATE FILED: AUGUST 22, 2000

DATE ADOPTED: SEPTEMBER 12, 2000


MAYOR

ATTEST: 
CITY CLERK

SEAL

FIRST READING 2-8-2011

PUBLISHED 2-8-2011

PASSED 4-12-2011

AN ORDINANCE NO. 4-12-2011

AN ORDINANCE TO AMEND THE CODE OF BLUE RIDGE, GEORGIA; TO AMEND SECTION 35.07 REGARDING THE HOTEL/MOTEL EXCISE TAX; TO PROVIDE FOR DEFINITIONS; TO EXPLAIN THE INTENT OF THE ORDINANCE; TO IMPOSE AND SET THE RATE OF THE TAX; TO PROVIDE FOR COLLECTION OF THE TAX BY OPERATORS OF HOTELS/MOTELS; TO PROVIDE FOR AN EXEMPTION TO IMPOSITION OF THE TAX; TO PROVIDE FOR REGISTRATION OF THE OPERATOR; TO PROVIDE FOR DETERMINATION OF TAXES WITH RETURNS AND PAYMENTS; TO PROVIDE FOR A PROCEDURE REGARDING DEFICIENCY DETERMINATION; TO PROVIDE FOR DETERMINATIONS IF NO RETURN IS MADE; TO PROVIDE CERTAIN MISCELLANEOUS ADMINISTRATIVE PROVISIONS; TO PROVIDE FOR PENALTIES FOR VIOLATIONS OF THIS ORDINANCE; TO PROVIDE FOR THE COLLECTION OF THE TAX; TO PROVIDE FOR AN EFFECTIVE DATE FOR SAID ORDINANCE; TO REPEAL CONFLICTING ORDINANCES, AND FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Blue Ridge, Georgia, pursuant to O. C. G. A. § 48-13-51 has previously imposed a tax pursuant to said authority to generate funds for the public purpose of promoting, attracting, stimulating and developing tourism, conventions and industries in the City, and for other public purposes; and

WHEREAS, O. C. G. A. § 48-13-51 permits the City to increase the excise tax from three (3%) percent to five (5%) percent in order to generate additional funds for said purposes;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLUE RIDGE, and it is hereby ordained by the authority of the same as follows:

SECTION 1. AMENDMENT TO SECTION 35.07 REGARDING THE HOTEL/MOTEL EXCISE TAX.

Section 35.07 of the Code of Ordinances is hereby stricken in its entirety, effective June 1, 2011, but as further provided herein shall remain effective until the collection of all taxes

assessed under said code section has been completed, and substituting in lieu thereof, a new Section 35.07 and Sections 35.08-35.18, to read as follows:

SECTION 35.07.

DEFINITIONS.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Due date means the twentieth day after the close of the monthly period for which tax is to be computed.

Guest room means a room occupied, or intended, arranged, or designed for occupancy, by one (1) or more occupants for the purpose of living quarters or residential use.

Hotel or motel means any structure or any portion of a structure, including any hotel, motel, lodging house, rooming house, dormitory, Turkish bath, bachelor hotel, studio hotel, motor hotel, auto court, inn, public club, containing guest rooms and occupied, or intended or designed for occupancy, by guests, whether rent is paid in money, goods, labor, or otherwise. The terms do not include any jail, hospital, asylum, sanitarium, orphanage, prison or detention or other buildings in which human beings are housed and detained under legal restraint.

Monthly period means a calendar month.

Occupancy means the use or possession, or the right to use or possession, of any room, space, or apartment in a hotel, motel, or travel trailer park, and the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or travel trailer space.

Occupant means any person who for a consideration uses, possesses, or has the right to use or possess any room or travel trailer space in a hotel, motel, or travel trailer park under any lease, concession, permit, right of access, license to use or other agreement, or otherwise.

Operator means any person operating a hotel, motel or travel trailer park in the City, including, but not limited to, the owner, proprietor, lessee, sub lessee, lender in possession, licensee, or any other person otherwise operating such hotel or travel trailer park.

Permanent resident means any occupant who occupies any guest room in a hotel or motel or a travel trailer space for not less than thirty (30) continuous days next preceding such date.

Person means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, nonprofit corporation or cooperative nonprofit membership, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, the plural as well as the singular number, excepting the United States of America, the state, and any political subdivision of either thereof upon which the City is without power to impose the tax provided for in this article.

Rent means the consideration received for occupancy, valued in money whether received in money or otherwise, including all receipts, cash, credits, and property or services of any kind or nature, and also the amount for which credit is allowed by the operator to the occupant, without any deduction there from whatsoever.

Return means any return filed or required to be filed as provided in this article.

Tax means the tax imposed by this article.

Travel trailer means any moveable vehicle or structure, including trailers, campers, vans, buses, motor homes, and other recreation vehicles.

Travel trailer park means a facility providing space for the parking of trailers, campers, vans, buses, or motor homes.

SECTION 35.08.

INTENT.

The intent of this article is to impose a tax pursuant to authority granted by the general assembly of this state, the funds from which taxation shall be used for any public purposes including the purpose of promoting, attracting, stimulating and developing tourism, conventions, and industry in the City.

SECTION 35.09.

IMPOSITION AND RATE OF TAX.

(a) There shall be paid a tax of five (5%) percent for the rent for every occupancy of a guest room in a hotel or motel, or occupancy of accommodations for value including, but not limited to, travel trailer spaces in the City. The tax imposed by this article shall be paid upon any occupancy on and after June 1, 2011, although such occupancy is had pursuant to a contract, lease or other arrangement made prior to such date.

(b) Prior to June 1, 2011, there shall be paid a tax of three (3%) percent for the rent of every occupancy of a guest room in a hotel or motel, or occupancy of accommodations for value including, but not limited to, travel trailer spaces in the City. The tax imposed by this article shall be paid upon any occupancy on and after December 1, 1998, although such occupancy is had pursuant to a contract, lease or other arrangements made prior to such date.

(c) All taxes due and payable prior to June 1, 2011, under the previous Code section shall remain due and payable pursuant to the previous provisions of the Code.

(d) Proceeds of this tax shall be used in accordance with O. C. G. A. § 48-13-51(a)(3).

SECTION 35.10.

COLLECTION OF TAX BY OPERATOR.

Every operator maintaining a place of business in this City and renting guest rooms or travel trailer space in this City, not exempted, shall collect a tax of three (3%) percent prior to

June 1, 2011, and a tax of five (5%) percent on or after June 1, 2011, on the amount of rent from the occupant.

SECTION 35.11.

EXEMPTION.

No tax shall be imposed under this article upon a permanent resident.

SECTION 35.12.

REGISTRATION OF OPERATOR; CERTIFICATION OF AUTHORITY.

Every person engaging or about to engage in business as an operator of a hotel, motel, or travel trailer park in this City shall immediately register with the City Clerk on a form provided by the City Clerk. Such registration shall set forth the name under which such person transacts business or intends to transact business, the location of his place or places of businesses, and such other information which would facilitate the collection of the tax as the City Clerk may require. The registration shall be signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or partner, and in case of ownership by a corporation, by an officer. The City Clerk shall after such registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration shall be required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable.

SECTION 35.13.

DETERMINATION, RETURNS AND PAYMENTS.

(a) *Due date of taxes.* The tax imposed in this article shall be due and payable to the City monthly on the twentieth day of the month next succeeding the mostly period in which it accrued.

(b) *Return; time of filing; persons required to file contents.* On or before the twentieth day of each month, a return for the preceding monthly period shall be filed with the City Clerk showing the gross rent, rent from permanent residents, taxable rent, amount of tax collected or otherwise due, and such other information as may be required by the City Clerk.

(c) *Collection fee allowed operators.* Operators collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deductible from the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be three (3%) percent of the amount due, but only if the amount due was not delinquent at the time of payment.

SECTION 35.14.

DEFICIENCY DETERMINATIONS.

(a) *Recomputation of tax; authority to make basis of recomputation.* If the City Clerk is not satisfied with the return filed by any person pursuant to this article, he may compute and determine the amount required to be paid upon the basis of any information available to him. One (1) or more deficiency determinations may be made of the amount due for one (1) or more monthly periods.

(b) *Interest of deficiency.* The amount of any deficiency determination shall bear interest at the rate of one (1) percent per month or fraction thereof from the due date of the taxes.

(c) *Service of notice of determination.* The City Clerk or his designated representation shall give to the operator written notice of any deficiency determination. The notice may be served personally or by, certified mail; if by certified mail such service shall be addressed to the operator at his address as it appears in the records of the City Clerk. Service by certified mail is complete upon the signing by the addressee of the return receipt acknowledging delivery. Except in the case of failure to make a return, every notice of a deficiency determination shall be mailed within three (3) years after the twentieth day of the calendar month following the monthly period for which the amount is proposed to be determined, or within three (3) years after the return is filed, whichever is later.

SECTION 35.15.

DETERMINATION IF NO RETURN MADE.

(a) *Estimate of gross receipts.* If any person fails to make a return, the City Clerk shall make an estimate of the amount of the gross receipts of the person, or as the case may be, of the amount of the total rentals of such person that are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make the return and shall be based upon any information which is or may come into the possession of the City Clerk. Written notice shall be given in the manner prescribed in section 35.14.

(b) *Interest on amount found due.* The amount of such determination shall bear interest at the rate of one (1) percent per month or fraction thereof, from the twentieth day of the month following the monthly period, for which the amount of any portion thereof should have been returned, until the date of payment.

SECTION 35.16.

MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) *Authority of City Clerk.* The City Clerk shall administer and enforce the provisions of this article relating to the collection of the tax imposed by this article. The City Clerk may utilize the City Attorney in the collection of the tax.

(b) *Records required from operators, etc.; form.* Every operator renting guest rooms or travel trailer space in this City to persons shall keep such records, receipts, invoices, and other pertinent papers, and in such form, as the City Clerk may require.

(c) *Examination of records.* The City Clerk or any person authorized in writing by the City Clerk may examine the books, papers, records, financial reports, equipment and other facilities of any operator renting guest rooms or travel trailer space to persons and any operator liable for the tax, in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(d) *Authority to require reports.* In the administration of the provisions of this article, the City Clerk may require the filing of reports by any person having in his possession or custody

information relating to rentals of guest rooms or travel trailer space subject to the tax. The reports shall be filed with the City Clerk when required by the City Clerk and shall set forth the rental charged for each occupancy, the dates of occupancy, and such other information of the City Clerk may require.

SECTION 35.17

VIOLATIONS.

Any person violating any of the provisions of this article shall be deemed guilty of an offense and upon conviction thereof shall be punished up to the maximum penalties allowed by the City Charter and as determined by a court of competent jurisdiction. Each such person shall be guilty of a separate offense for each day during any portion of which any violation of any provision of this section is committed, continued, or permitted by such person, and shall be punished accordingly. Any operator or any other person who fails to register as required in this article, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the City Clerk or who renders a false or fraudulent return shall be deemed guilty of an offense.

SECTION 35.18.

COLLECTION OF TAX.

(a) *Action of tax.* At any time within three (3) years after any amount of tax required to be collected under this article becomes due and payable and at any time with three (3) years after the delinquency of any tax or any amount of tax required to be collected, the City Clerk may bring an action in a court of competent jurisdiction in the name of the City to collect the amount delinquent together with interest, court fees, filing fees, attorney's fees and other legal fees incident thereto.

(b) *Duty of successors or assignees of operator to withhold tax from purchase money.* If any operator liable for any amount under this section sells out his business or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the City Clerk showing that he has been paid or a certificate stating that no amount is due.

(c) *Liability for failure of purchaser to withhold.* If the purchaser of a business fails to withhold purchase price as required, he shall be personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price.

(d) *Overpayments.* Whenever the amount of any tax or interest has been paid more than once, or has been erroneously or illegally collected or received by the City under this section, it may be offset by the City Clerk. If the operator or person determines that he has overpaid or paid more than once, which fact has not been determined by the City Clerk, he shall have three (3) years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved by the City Clerk, the excess amount paid the City may be credited on any amounts then due and payable from the person by whom it was paid, or his administrators or executors.

SECTION 2.

REPEALER.

All Resolutions, or Ordinances, or parts thereof, in conflict with the terms of this ordinance are hereby repealed, but it is hereby provided that any resolution, ordinance or law, which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, which shall be liberally construed to be in favor of the City of Blue Ridge, is hereby adopted as part hereof. Section 35.07 as it appears prior to the passage of this ordinance shall remain in effect regarding any taxes assessed up to June 1, 2011, and regarding said taxes, until all of said taxes are collected. It is the intent of the City Council of the City of Blue Ridge that the City be able to assess and collect the hotel/motel excise tax of three (3%) percent which is in effect until June 1, 2011.

SECTION 3.

SEVERABILITY.

If any paragraph, sub-paragraph, section, subsection, sentence, clause, phrase, or any portion of this ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this ordinance not so held to be invalid. It is hereby declared to be the intent of the Blue Ridge City Council to provide for separable and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.


SECTION 4.

EFFECTIVE DATE.

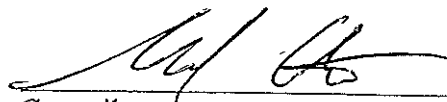
This ordinance is effective upon passage, but the hotel/motel excise tax as provided herein, shall remain at three (3%) percent until June 1, 2011, and shall not become five (5%) percent until June 1, 2011.

SO ORDAINED this 12th day of April, 2011.

BLUE RIDGE CITY COUNCIL

By: 
Mayor


Councilperson


Councilperson

Chanda Thomas
Councilperson

Radney Krehl
Councilperson

Paul Hulse
Councilperson

Attest:

Brian Lowen
City Clerk
(SEAL)